

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION
37 C.F.R. 1.321(c)

APPLICANT: Vincent Bryan et al ATTY. DOCKET NO.: P98,0775
SERIAL NO: 08/856,846 GROUP ART UNIT: 3738
FILED: 05/15/97 EXAMINER: T. Nguyen
INVENTION: "HUMAN SPINAL DISC PROSTHESIS"

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Assistant Commissioner of Patents
Washington, D.C. 20231

SIR:

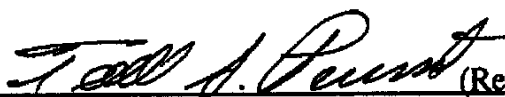
I, Todd S. Parkhurst, represent that I am the attorney of record for this invention and patent application. The named inventors in this application have orally indicated their intent to enter into a written assignment of all their interests in the application and invention to Spinal Dynamics Corporation, but the assignment of this application has not yet been executed or recorded in the United States Patent and Trademark Office. I am authorized to act for, and to execute and file this Terminal Disclaimer for, each and every inventor/assignor and for the assignee Spinal Dynamics Corporation. The named inventors, assignors and oral assignee Spinal Dynamics Corporation are herein collectively referred to as Disclaimants.

The terminal part of the statutory term of any patent which is to be granted on the above-identified application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154-156 and 173 of U.S. Patent 5,674,296, forming the basis of the double patenting rejection in the above-captioned application, is hereby disclaimed, except as provided below, and it is agreed that any patent so granted on the captioned application shall be enforceable only for, and during, such period that the legal title to said patent shall be the same as the legal title to U.S. Patent 5,674,296. This agreement is to run with any patent granted on the captioned application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, disclaimants do not disclaim the terminal part of any patent granted on the captioned application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154-156 and 173 of the patent forming the basis of the double patenting rejection in the event that said '296 patent later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims canceled by a reexamination certificate, is reissued in any manner, or is terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title referred to above.

As shown on the filing receipt in the caption application, the oral Assignee is a small entity. The filing fee for this terminal disclaimer of \$55.00 (37 C.F.R. 1.20(d)) accompanies this Terminal Disclaimer. If any additional sums are due, or if any amount has been overpaid, please debit or credit our charge deposit account 08-2290. A duplicate of this Disclaimer is attached.

Respectfully submitted,



(Reg. No. 26,494)

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on June⁴, 1998.

Todd S. Parkhurst (Reg. No. 26, 494)

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